

§ 416.50 Condition for coverage—Patient rights.

The ASC must inform the patient or the patient's representative of the patient's rights, and must protect and promote the exercise of such rights.

(a) *Standard: Notice of rights.* (1) The ASC must provide the patient or the patient's representative with verbal and written notice of the patient's rights in advance of the date of the procedure, in a language and manner that the patient or the patient's representative understands. In addition, the ASC must—

(i) Post the written notice of patient rights in a place or places within the ASC likely to be noticed by patients (or their representative, if applicable) waiting for treatment. The ASC's notice of rights must include the name, address, and telephone number of a representative in the State agency to whom patients can report complaints, as well as the Web site for the Office of the Medicare Beneficiary Ombudsman.

(ii) The ASC must also disclose, where applicable, physician financial interests or ownership in the ASC facility in accordance with the intent of Part 420 of this subchapter. Disclosure of information must be in writing and furnished to the patient in advance of the date of the procedure.

(2) *Standard: Advance directives.* The ASC must comply with the following requirements:

(i) Provide the patient or, as appropriate, the patient's representative in advance of the date of the procedure, with information concerning its policies on advance directives, including a description of applicable State health and safety laws and, if requested, official State advance directive forms.

(ii) Inform the patient or, as appropriate, the patient's representative of the patient's right to make informed decisions regarding the patient's care.

(iii) Document in a prominent part of the patient's current medical record, whether or not the individual has executed an advance directive.

(3) *Standard: Submission and investigation of grievances.* (i) The ASC must establish a grievance procedure for documenting the existence, submission, investigation, and disposition of a pa-

tient's written or verbal grievance to the ASC.

(ii) All alleged violations/grievances relating, but not limited to, mistreatment, neglect, verbal, mental, sexual, or physical abuse, must be fully documented.

(iii) All allegations must be immediately reported to a person in authority in the ASC.

(iv) Only substantiated allegations must be reported to the State authority or the local authority, or both.

(v) The grievance process must specify timeframes for review of the grievance and the provisions of a response.

(vi) The ASC, in responding to the grievance, must investigate all grievances made by a patient or the patient's representative regarding treatment or care that is (or fails to be) furnished.

(vii) The ASC must document how the grievance was addressed, as well as provide the patient with written notice of its decision. The decision must contain the name of an ASC contact person, the steps taken to investigate the grievance, the results of the grievance process, and the date the grievance process was completed.

(b) *Standard: Exercise of rights and respect for property and person.* (1) The patient has the right to—

(i) Exercise his or her rights without being subjected to discrimination or reprisal.

(ii) Voice grievances regarding treatment or care that is (or fails to be) furnished.

(iii) Be fully informed about a treatment or procedure and the expected outcome before it is performed.

(2) If a patient is adjudged incompetent under applicable State health and safety laws by a court of proper jurisdiction, the rights of the patient are exercised by the person appointed under State law to act on the patient's behalf.

(3) If a State court has not adjudged a patient incompetent, any legal representative designated by the patient in accordance with State law may exercise the patient's rights to the extent allowed by State law.

(c) *Standard: Privacy and safety.* The patient has the right to—

(1) Personal privacy.

- (2) Receive care in a safe setting.
- (3) Be free from all forms of abuse or harassment.

(d) *Standard: Confidentiality of clinical records.* The ASC must comply with the Department's rules for the privacy and security of individually identifiable health information, as specified at 45 CFR parts 160 and 164.

[73 FR 68812, Nov. 18, 2008]

§416.51 Conditions for coverage—Infection control.

The ASC must maintain an infection control program that seeks to minimize infections and communicable diseases.

(a) *Standard: Sanitary environment.* The ASC must provide a functional and sanitary environment for the provision of surgical services by adhering to professionally acceptable standards of practice.

(b) *Standard: Infection control program.* The ASC must maintain an ongoing program designed to prevent, control, and investigate infections and communicable diseases. In addition, the infection control and prevention program must include documentation that the ASC has considered, selected, and implemented nationally recognized infection control guidelines. The program is—

(1) Under the direction of a designated and qualified professional who has training in infection control;

(2) An integral part of the ASC's quality assessment and performance improvement program; and

(3) Responsible for providing a plan of action for preventing, identifying, and managing infections and communicable diseases and for immediately implementing corrective and preventive measures that result in improvement.

[73 FR 68813, Nov. 18, 2008]

§416.52 Conditions for coverage—Patient admission, assessment and discharge.

The ASC must ensure each patient has the appropriate pre-surgical and post-surgical assessments completed and that all elements of the discharge requirements are completed.

(a) *Standard: Admission and pre-surgical assessment.* (1) Not more than 30

days before the date of the scheduled surgery, each patient must have a comprehensive medical history and physical assessment completed by a physician (as defined in section 1861(r) of the Act) or other qualified practitioner in accordance with applicable State health and safety laws, standards of practice, and ASC policy.

(2) Upon admission, each patient must have a pre-surgical assessment completed by a physician or other qualified practitioner in accordance with applicable State health and safety laws, standards of practice, and ASC policy that includes, at a minimum, an updated medical record entry documenting an examination for any changes in the patient's condition since completion of the most recently documented medical history and physical assessment, including documentation of any allergies to drugs and biologicals.

(3) The patient's medical history and physical assessment must be placed in the patient's medical record prior to the surgical procedure.

(b) *Standard: Post-surgical assessment.*

(1) The patient's post-surgical condition must be assessed and documented in the medical record by a physician, other qualified practitioner, or a registered nurse with, at a minimum, post-operative care experience in accordance with applicable State health and safety laws, standards of practice, and ASC policy.

(2) Post-surgical needs must be addressed and included in the discharge notes.

(c) *Standard: Discharge.* The ASC must—

(1) Provide each patient with written discharge instructions and overnight supplies. When appropriate, make a followup appointment with the physician, and ensure that all patients are informed, either in advance of their surgical procedure or prior to leaving the ASC, of their prescriptions, post-operative instructions and physician contact information for followup care.

(2) Ensure each patient has a discharge order, signed by the physician who performed the surgery or procedure in accordance with applicable State health and safety laws, standards of practice, and ASC policy.